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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/049,266	09/09/2002	Andreas Kling	50559	9439	
32116 75	90 07/01/2004		EXAM	INER	
WOOD, PHIL	LIPS, KATZ, CLARK	KIFLE, BRUCK			
500 W. MADIS	ON STREET		ART UNIT	PAPER NUMBER	
SUITE 3800 CHICAGO, IL	CHICAGO, IL 60661			1624	
			DATE MAILED: 07/01/200		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
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055 - 4-45 0	10/049,266	KLING ET AL.			
Office Action Summary	Examiner	Art Unit			
	Bruck Kifle, Ph.D.	1624			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a repl - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a reply be timely within the statutory minimum of thirty (30) days will apply and will expire SIX (6) MONTHS from a, cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 09 S	September 2002.				
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,— · · ·	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.				
Disposition of Claims					
4) Claim(s) 1-8 and 12-14 is/are pending in the a 4a) Of the above claim(s) is/are withdra 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-8 and 12-14 are subject to restriction Application Papers 9) The specification is objected to by the Examine	wn from consideration. on and/or election requirement. er.	-vorsings			
 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. 					
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:				

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Election/Restrictions

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The compounds of formula I do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The claims lack unity of invention because compounds of formula (I) do not possess single structural element that is shared by all of the alternatives. There is no common structural feature that is shared by all of the alternatives of formula (I).

The special technical feature is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art.

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The feature is, thus, <u>not special</u> if it is known. That what is common here is the ring nitrogen connected to two carbons in a ring, which is known.

The claims are drawn to structurally dissimilar compounds which are classified separately, require separate literature searches and are not art recognized equivalents. They are made and used independently.

Note that compounds, corresponding compositions, a method of use and a process of making that are of the same scope are considered to form a single inventive concept under PCT Rule 13.1, 37 CFR 1.475(d). The species of formula (I) are not so linked as to form a single inventive concept. The compounds are so diverse in scope that a prior art anticipating one compound under 35 USC 102 would not render obvious another compound of the same claim under 35 USC 103.

A telephone call was made to Mr. Martin Katz on June 30, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruck Kifle, Ph.D. whose telephone number is 571-272-0668. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund J. Shah can be reached on 571-272-0674. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Bruck Kifle, Ph.D. Primary Examiner Art Unit 1624

BK June 30, 2004